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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/531,857 | 04/19/2005 | Michael John Watchorn | TEBL2 | 4009 |
| 6980 7590 04/02/2009 TROUTMAN SANDERS LLP BANK OF AMERICA PLAZA 600 PEACHTREE STREET, N.E. SUITE 5200 ATLANTA, GA 30308-2216 | | | | |
| EXAMINER | | | | |
| SINGH, SUNIL | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3672 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/531,857

Applicant(s)

WATCHORN, MICHAEL JOHN

Examiner

Sunil Singh

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 6-8, 10, 12-24 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) 16-24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10, 12-15 and 32 is/are allowed.
- 6) ☒ Claim(s) 4, 6, 7, 8, 29-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 4, 30,31 rejected under 35 U.S.C. 102(b) as being anticipated by Hage (US 1378948).

Hage discloses a structure comprising an end part (see Fig. 2) adapted for insertion into a foundation (8), the foundation comprising a socket having a base surface, an intermediate supporting part and an upper body having an internal guiding surface adapted to guide said end part into the intermediate supporting part, said structure further comprising an active adjustable alignment means (12) disposed on said end part positionable, when said end part has been accommodated in the socket to act on said internal guiding surface, the alignment means being configured such that adjustment thereof moves the structure relative to the socket to align the structure into a desired alignment, the alignment means detachable from the end part with the end part remaining in the foundation (see lines 80-90). Re claims 30,31 see lines 80-90.

3. Claims 4, 6, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Shatto, Jr. et al. (US 3788396).

Shatto Jr. et al. discloses a structure mountable in a foundation, the structure includes an end part (see Figure 6), alignment means (151,152, 153), a leading conical tip (158). The alignment means is configured such that adjustment thereof moves the structure relative to the socket. It should be noted that as member (151,152,153) pushes against the guide surface of the socket, the guide surface pushes back and thus move the structure relative to the socket. The alignment means is considered removable/detachable because it is capable of being removed after the end part is inserted in the foundation (such as by disconnecting members 152,153 from member 149).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shatto, Jr. et al..

With regards to claim 8, Shattor, Jr. et al. discloses the invention substantially as claimed. However, Shatto, Jr. et al. is silent about the tip including part spherical shape. The examiner takes official notice that tip including spherical shape is old and well

known. It would have been considered obvious to one of ordinary skill in the art to modify Shatto, Jr. et al. to provide a spherical end shape since such a shape reduces injury due to having a sharp measuring head (158).

With regards to claim 29, Shattor, Jr. et al. discloses the invention substantially as claimed. However, Shatto, Jr. et al. is silent about the alignment means including hydraulic cylinder. The examiner takes official notice that hydraulic cylinder is old and well known biasing means. It would have been considered obvious to one of ordinary skill in the art to modify Shatto, Jr. et al. to substitute hydraulic cylinder for the biasing means (153) disclosed by Shatto, Jr. et al. since it is an obvious design choice to substitute equivalent parts for performing equivalent functions.

Allowable Subject Matter

6. Claims 10,12-15 and 32 are allowed.

Response to Arguments

7. Applicant's arguments filed 2/3/09 have been fully considered but they are not persuasive. Applicant argues that Shatto Jr. et al. does not teach the "alignment means" is not "detachable" from the end part with the end part remaining in the foundation. The examiner disagrees. See Figure 6, members (153,152) are capable of being detached by disconnecting members 152,153 from member 149.

Applicant's arguments with respect to claim 30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (571) 272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sunil Singh/
Primary Examiner, Art Unit 3672

Sunil Singh
Primary Examiner
Art Unit 3672

SS

3/29/09